

Staff Report
Bulk Standard Variance
Board of Zoning Appeals
March 27, 2013

**Boone County
Board of Zoning Appeals**

A. Petition Number:	13CL-14-018
B. Applicant:	Morton Farms, LLC
C. Identification Number:	002-03790-00
D. Location:	The location of this petition is north of State Road 47 and east of County Road 200 East.
E. Parcel Size:	<u>Parcel Size</u> The total parcel size is 132 acres.
F. Land Use and Zoning:	<u>Present Zoning</u> The present zoning classification of this property is Agricultural Zoning.
G. Action Requested:	<u>Variance Request-Confined Feeding Operation</u> (North Property Setback) The applicant is seeking to place a new Confined Feeding Operation (CFO) 848' away from the northern property line, as opposed to adhering to the Ordinance standard of 1,320 feet.



Owner: Morton Farms, Incorporated

Picture: Adjacent Residence to the North Property Line-848' Feet

Date of Photo: February 25, 2013

Applicant: Morton Farms
Date: March 27, 2013 Meeting
Petition: CFO Setbacks

Variance Request-Confined Feeding Operation

(Southern Property Setback)

The applicant is seeking to place a new Confined Feeding Operation (CFO) 1,039 feet away from the southern property line, as opposed to adhering to the Ordinance standard of 1,320 feet.



Owner: Scott and Angela Morton

Picture: Adjacent Residence to the South Property Line-1,039' Feet

Date of Photo: February 25, 2013

Boone County Zoning Ordinance- [Page 86]

Confined Feeding Operations

Any proposed Confined Feeding Operation (CFO) must be located 1,320 feet away from the property line of any adjacent existing or approved residential use. Conversely, any future residential use must be located 1,320 feet away from the property of any existing or approved Confined Feeding Operation (CFO).

H. History:

History of Application Submittal

This is the first time this item has appeared before the Board of Zoning Appeals.

I. Utilities:

Boone County Health Department

This property contains an existing septic field and well on the property.

J. Technical Advisory Committee Comments:	<p>This item was reviewed by the Technical Advisory Committee on February 27, 2013 and had the following comments:</p> <p><u>Boone County Health Department</u> The proposed Confined Feeding Operation (CFO) will be required to acquire permits from the Indiana Department of Environmental Management (IDEM).</p> <p><u>Boone County Surveyors Office</u> In the event, the variances are approved, the applicant will need to apply the required drainage permit.</p> <p><u>Boone County Highway Department</u> The applicant will be required to apply for a driveway permit on County Road 200 East.</p> <p><u>Boone County Area Plan Commission</u> (The review of the Variance Request is denoted under APC Comments below):</p>
K. Standard for Evaluation-Variance Request:	<p>1) The variance will not be injurious to the public health, safety, morals and general welfare of the community.</p> <p>APC Staff Comment: As indicated in the Technical Advisory Committee meeting and the submitted variance application, the petitioner is seeking to place a new Confined Feeding Operation (CFO) within the required 1,320 foot setback from 2 adjacent residential uses. The northern existing residential use stands approximately 828' feet away from the proposed Confined Feeding Operation and approximately 1,039' feet away from the southern residential property line.</p> <p>The proposed CFO structure will be located outside of the 70' front setback outside of the Right-of-Way located on County Road 200 East. The structure will adhere to all regulatory standards of Indiana Department of Environmental Management (IDEM) for the allowance of a CFO. The new structure will be constructed to the International Building Code (IBC) standards, therefore, poses no threat to the public health, safety, morals and general welfare of the community.</p>

	<p>2) The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.</p> <p><i>APC Staff Comment:</i> As indicated in the Technical Advisory Committee meeting and the submitted variance application, there is no adverse impact on the surrounding properties. As stated by the applicant in the variance application form, the variance will not interfere with the functional use of any of the surrounding land uses, due to the fact, the proposed Confined Feeding Operation will be located 70' from the center of the road which is outside the dedicated right-of-way on County Road 200 East, therefore, poses no safety issues for traffic flow on the road.</p> <p>The granting of the requested variance will not impact the use and enjoyment of the surrounding property to the north, based on the fact, the new structure meets the Ordinance requirement for the north property line setback.</p> <p>3) The strict application of the terms of the Ordinance will continue the unusual and unnecessary hardship as applied to the property for which the variance is sought.</p> <p><i>APC Staff Comment:</i> The subject location of the proposed Confined Feeding Operation is located on an existing operation. Due to functional operational needs, the applicant is seeking to place a new CFO structure marginally within the minimum setback distance of 1,320 feet on 2 adjacent residential uses. As indicated by the applicant in the TAC hearing, the unnecessary hardship for this property is the established structures, driveway and general layout of the property which prompts the need for the requested minimum separation CFO setback variances.</p>
<p>L. Staff Analysis:</p>	<p>In review of the requested Variances, Area Plan Commission finds the applicant has satisfied the (3) statutory variance criteria. Area Plan Staff recommends approval of the requested variances as presented contingent on the following condition:</p> <p>1) Prior to construction of the new CFO, the property owner located the corners of the structures for field verification of the setback distances by the APC office.</p>